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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,189	10/30/2003	Gary Hochman	0813-016P/JAB	8180
7590	10/04/2004		EXAMINER	
SCHWEITZER CORNMAN GROSS & BONDELL LLP 292 Madison Avenue New York, NY 10017			HARRIS, CHANDA L	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/697,189	HOCHMAN, GARY	
	Examiner Chanda L. Harris	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 October 2003.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-18 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft (US 4,978,305) in view of Poor (US 5,672,060).

1. [Claims 1,10,12,16]: Regarding Claims 1,10, 12, and 16, Kraft discloses disseminating gradable material (i.e., exam, essay) to at least one student for the student to enter gradable information therein. See Col.7: 32-35 and Col.9: 54. Kraft discloses collecting the gradable material and determining a grade therefore. See Col.9: 54. Kraft discloses entering teacher-generated review data (i.e., grade) for the student from whom the gradable material was collected upon the gradable material in a machine-readable format. See Col.9: 55-59. Kraft discloses capturing and storing the review data in an electronic folder (i.e., database) associated with a student identification code (i.e., examinee number) thereon. Se Col.10: 15-24.

Kraft does not disclose expressly capturing and storing an image of the gradable material, providing controlled viewing access to the image by authorized viewers (i.e., human scorers), returning the gradable material to the student after the image of the gradable material is stored, wherein the step of storing the image in an electronic folder

includes a step of scanning the original gradable material to create an electronic image thereof, transferring at least one stored image from the electronic folder to a secondary storage media for dissemination. However, Poor teaches capturing and storing an image of the gradable material, providing controlled viewing access to the image by authorized viewers, and wherein the step of storing the image in an electronic folder includes a step of scanning the original gradable material to create an electronic image thereof in the Abstract. Poor teaches transferring at least one stored image from an electronic folder to a secondary storage medium (i.e., the scorer's computer) for dissemination. See Col.8: 53-56. Moreover, Poor's invention is capable of returning material after the image of a material has been stored. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitations into the method and system of Kraft, in light of the teaching of Poor, in order to permit the scoring of nonobjective assessment materials through the application and use of captured images.

2. [Claim 2]: Regarding Claim 2, Kraft discloses locating a label on the gradable material having a predetermined data capture format for review data (i.e., examinee number) to be placed thereon and placing the review data upon the label. See Col.7: 30-35.

3. [Claims 3-4, 7-9]: Regarding Claims 3-4 and 7-9, Kraft discloses locating a label on the gradable material having a specified location (i.e., on each exam) for the affixation of the student identification code (i.e., examinee number), wherein the step of

locating a label comprises the affixation of a separate label to the gradable material, wherein the label includes a pre-printed student identification code. See Col.7: 30-35.

4. [Claims 5-6]: Regarding Claims 5 and 6, Kraft discloses wherein the review data includes a grade and wherein the review data capture format accommodates the grade. See Col.9: 55-59.

5. [Claim 11]: Regarding Claim 11, Kraft discloses wherein the identification code is entered on the gradable material after the gradable material is collected. See Col.7: 61-64.

6. [Claim 14]: Regarding Claim 14, Kraft discloses wherein the grade is placed upon the gradable material in a machine-readable format. See Col.9: 55-59.

7. [Claim 15]: Regarding Claim 15, Kraft discloses the step of placing a captured grade in an electronic grade book or database. See Col.10: 12-24.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft/Poor as applied to claim 1 above, and further in view of Romano et al. (US 5,991,905).

[Claim 13]: Regarding Claim 13, Kraft/Poor does not disclose expressly wherein the step of providing viewing access is through the Internet. However, Romano teaches such in Col.6: 49-54. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate providing viewing access through the Internet into the method and system of Kraft/Poor, in light of the teaching of Romano, in order to enable a remote communication means.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft/Poor as applied to claim 16 above, and further in view of Housman et al. (US 2003/00224340).

1. [Claim 17]: Regarding Claim 17, Kraft/Poor does not disclose expressly wherein the secondary storage media is a cd. However, Housman teaches such on p.1, [0007]. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate wherein the secondary storage media is a cd into the method and system of Kraft/Poor, in light of the teaching of Housman, in order to provide a storage media to write files to.
2. [Claim 18]: Regarding Claim 18, Kraft/Housman does not disclose expressly wherein the transferring step comprises the transfer of a plurality of stored images associated with a particular student identification number (i.e., images if materials associated with specific students). However, Poor teaches such in Col.6: 58-61. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Kraft/Housman, in light of the teaching of Poor, in order to permit efficient retrieval of the images of gradable materials.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Jongsma et al. (US 6,267,601)

- scanned image of answer sheet
- Clark et al. (US 5,321,611)
 - scanned answer images
- Knowles (US 2002/0123029)
 - electronically imaged responses
- Yates et al. (US 2003/0180703)
 - scanned answer sheet
- Moulthrop et al. (US 2003/0207246)
 - scoring open-ended responses
- Poor (US 6,577,846)
 - open-ended assessments

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 703-308-8358. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Chanda L. Harris
Examiner
Art Unit 3714

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